

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

**WRIGHT, WORLEY, POPE, EKSTER  
& MOSS, PLLC,**

Plaintiff/Stakeholder,

-vs-

**SHERRY ANN SMITH,**

Defendant/Client,

and

**BLUE CROSS BLUE SHIELD OF  
TENNESSEE,**

Defendants/Insurance Co.

**COMPLAINT FOR INTERPLEADER**

Plaintiff would respectfully show and allege to this Honorable Court as follows:

**JURISDICTION AND VENUE**

1. Plaintiff Wright, Worley, Pope, Ekster & Moss, PLLC (hereinafter referred to as “Plaintiff”) is a professional limited liability company that is engaged in the practice of law in Horry County, South Carolina.
2. Upon information and belief, the Defendant Sherry Ann Smith (hereinafter “Defendant Smith”) is a citizen and resident of Columbus County with a mailing address of 678 Whitehall Road, Whiteville, NC 28472.
3. The Defendant Blue Cross Blue Shield of Tennessee, Inc. (hereinafter “Defendant BCBST”), is the third-party claims administrator of the West Fraser, Inc. Health and Welfare Plan (“Plan”), and it is an entity organized and existing under the law of a state other than South Carolina which transacts business in Horry County, South Carolina.

4. This action is brought to resolve claims regarding settlement money held in Trust in Horry County, South Carolina.
5. This Honorable Court has subject matter jurisdiction over the matters at issue in this Complaint for Interpleader under 28 U.S.C. § 1331, as the underlying claims at issue involved rights and obligations under the Employee Retirement Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001, *et seq.*, and pursuant to the federal Interpleader statute, 28 U.S.C § 1335. and venue is proper in Horry County.
6. This Court has in rem jurisdiction over the property at issue in this dispute as the settlement proceeds are currently held in Trust in Horry County, South Carolina.

#### **GENERAL ALLEGATIONS OF FACT**

7. All allegations of fact made previously are repeated here as if set forth verbatim.
8. Plaintiff represented Defendant Sherry Ann Smith in the bringing of claims against Belk, Inc. d/b/a BELK and Thomas Cuyler in the Circuit Court in and for Horry County, South Carolina (Case No. 2017-CP-26-03229).
9. The case was resolved in a mediation conference after which the Defendant’s caused to be deposited into Plaintiff’s trust account settlement funds.
10. Defendant BCBST has asserted a first-priority right of subrogation and reimbursement over the settlement funds, specifically in the amount of Seven Thousand One Hundred and Ninety Nine and 35/100 Dollars (\$7,199.35), on behalf of the Plan.
11. Defendant Smith disputed the Plan’s subrogation lien and instructed Plaintiff’s attorneys not to pay the subrogation lien.

12. Defendant Smith and Plaintiff's attorneys and staff have severed their relationship as attorney and client.
13. Plaintiff is in possession of the remaining Settlement Money in the amount of Seven Thousand One Hundred and Ninety Nine and 35/100 Dollars (\$7,199.35), which is held in Trust in Horry County, South Carolina.
14. Upon information and belief, all Defendants each claim or may each claim to be entitled to the aforementioned Settlement Money and said claims are adverse and inconsistent with one another.
15. Plaintiff, as stakeholder, claims no interest in the money yet cannot safely distribute the money or any part of it without an Order of the Court establishing the rights of the parties.

#### **FIRST CAUSE OF ACTION – INTERPLEADER**

16. All allegations of fact made previously are repeated here as if set forth verbatim.
17. Plaintiff seeks to interplead the Settlement Money by way of deposit or delivery of the funds to the Clerk of Court for Horry County, pending determination of the matters at issue in the present civil action.
18. Plaintiff's representatives are informed and believe that once Plaintiff has interplead the Settlement Money and served the Defendants, the Defendants will each have an opportunity to appear in this action and assert any claim that any or each Defendant may assert in and to the Settlement Money funds.

#### **PRAYER FOR RELIEF**

Plaintiff prays that this Honorable Court will inquire into the matters set forth above, and issue its Order or Orders that will:

- a) Resolve any issues of entitlement to the Settlement Money funds; and
- b) Direct the Clerk of Court how and to whom payment of the Settlement Money funds should be tendered; and
- c) Award such other and further relief as this Honorable Court may find just and proper, including but not limited to an award to Plaintiff of such costs and expenses, including reasonable attorneys' fees, as applicable law may allow with regard to the bringing of this present action.

**Respectfully submitted,**

**Wright, Worley, Pope, Ekster & Moss, PLLC**  
*Attorneys for the Plaintiff*

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